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## **SUPREME COURT AMENDS RULES FOR SWIFTER APPEALS IN CHILD CUSTODY CASES**

The Illinois Supreme Court has amended its rules to provide a swifter means for achieving permanency and stability in child custody issues relating to divorce and parentage cases.

The rules changes, announced on Friday, allow the appeal of custody issues even if other matters in those cases are unresolved. The situation often arises in marriage dissolution cases that can linger over issues of property, spousal support and other matters; or in parentage cases where decisions affecting the rights and persons other than the child may be unresolved.

A primary change amends Supreme Court Rule 304 to allow a trial court's permanent determination of custody to be appealed even if other issues in the underlying matter remain unresolved.

The rules changes have been thoroughly considered by the Special Supreme Court Committee on Child Custody Issues and by the Supreme Court Rules Committee which held a public hearing on the rules in April 2009.

"I think this is a very significant modification," said Circuit Court Judge Moshe Jacobius, head of the Cook County Domestic Relations Division who is co-chair of the Committee on Child Custody Issues. "The Supreme Court wanted to expedite appeals of this type so that a child not remain in limbo after the trial court has ruled on custody but still has other issues remaining before it."

The amended rules are a refinement to strengthen a package of rules studied by both committees and approved by the Supreme Court previously to help ensure that child custody matters be handled expeditiously, competently and with great emphasis on the best interest of the child.

Those rules allowed for an interlocutory appeal of custody issues, but required the special permission of the trial court. In addition, some appellate courts had ruled that even a permanent determination of custody may not be appealed until all underlying issues of the divorce case were settled.

The amended rules now make a final determination of custody appealable as a matter of right regardless of other issues that are remaining.

**MORE**

## **Supreme Court Amends Child Custody Rules Add One**

The Supreme Court amended the rules under its supervisory and administrative authority granted to it by the Illinois Constitution (Art. VI, Section 16); as well as under its constitutional authority to provide by rule for appeals to the Appellate Court from other than final judgements of the Circuit Courts (Article VI, Section 6).

“Now, a child custody judgment, even when it is entered prior to the resolution of other matters involved in the dissolution proceeding such as property distribution and support, shall be treated as a distinct claim and shall be appealable without a special finding,” said Circuit Court Judge Robert J. Anderson, presiding judge of the DuPage County Domestic Relations Division and also co-chair of the committee. “The goal of the amendment is to promote stability for affected families by providing a means to obtain swifter resolution of child custody matters.”

The amended change is embodied by adding Rule 304 (b) (6) to Supreme Court Rule 304, which involves appeals from final judgements that do not dispose of an entire proceeding.

The Supreme Court also amended Rule 306 to allow for interlocutory appeals of temporary orders of custody by leave of the trial court and the appellate court.

Consistent with an amendment offered by the Supreme Court Rules Committee, the Supreme Court also set out the procedures for disposing of child custody appeals in amended Rule 311, which now contains modified language formerly included in Rule 306A.

“The Committee on Child Custody Issues commends the Supreme Court for its continuing interest and concern in this area,” said Judge Anderson. “The Court has led the way in making sure that children and children’s issues are treated with the utmost speed and competency.”

The Special Committee was formed in January, 2002 on the recommendation of Chief Justice Thomas R. Fitzgerald and Justice Rita B. Garman. It was motivated by a desire to provide the children of Illinois the fairest system possible.

Other rules, previously recommended and adopted by the Supreme Court are encapsulated in Rules 900 to 942. They relate to all child custody proceedings under the Juvenile Court Act, the Illinois Marriage and Dissolution of Marriage Act, the Uniform Child Custody Jurisdiction and Enforcement Act, the Illinois Parentage Act, the Illinois Domestic Violence Act, Article 112 A of the Code of Criminal Procedure and guardianship matters involving a minor under article XI of the Probate Act of 1984.

“A child’s life doesn’t stop and wait for us,” Chief Justice Fitzgerald said at the time the previous rules were adopted. “These are some of the most important issues that ever come before our judicial system, and we have to be conscious that these cases be dealt with in a reasonable period of time.”